

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1291

Introduced by Assembly Member Niello

February 27, 2009

An act to amend Sections 1513, 1513.5, 1514, 1516, 1520, 1532, 1540, 1560, ~~1563~~, 1565, and 1577 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1291, as amended, Niello. Unclaimed property.

Existing law, the Unclaimed Property Law, governs the disposition of unclaimed property, including the escheat of certain property to the state. Those provisions require a person holding funds or other property escheated to the state to report to the Controller certain information regarding the property and the owner.

Existing law provides for the escheat to the state of (1) certain deposits or accounts made with a banking organization, together with other specified sums, (2) certain deposits, accounts, investment certificates, or other interests in or deposits made with a financial organization, together with other specified sums, and (3) certain funds held by a business association in specified retirement accounts or plans, when the owner, for more than 3 years, has not taken any of certain actions, except as specified.

This bill would modify the actions that, if not taken by the owner for more than 3 years, lead to the escheat of the property described above by adding to those actions the receipt of tax reports or regular statements by mail from the banking organization, financial organization, or business association regarding the funds, deposit,

account, or plan. The bill would provide that receipt of a report or statement by the owner shall be presumed if the organization or association sent the report or statement to the owner by first-class mail and the report or statement was not returned.

Existing law requires certain entities to make reasonable efforts to notify owners of certain property, by mail, that the property will escheat to the state under specified provisions of law.

This bill would allow those entities to notify an owner described above electronically when the owner has consented to electronic notifications.

Existing law requires the holder of certain property, including certain property held by a banking or financial organization, certain sums held or owing by a business association to shareholders or other specified persons, and tangible property that is held in the ordinary course of the holder's business, to notify the owner, at prescribed times, of information regarding escheat.

This bill would require that those notices contain certain information and would allow the holder to give additional notices, as specified. The bill would require that, at the time a new account is opened with a banking or financial organization, the organization provide a written notice to the person opening the account regarding escheat.

Existing law provides that the contents of any safe deposit box or any other safekeeping repository held in this state by a business association escheat to the state if unclaimed by the owner for more than three years from the date on which the lease or rental period on the box or other repository expired, or from the date of termination of another specified agreement, whichever last occurs.

This bill would provide, instead, that the contents of a safe deposit box or other safekeeping repository, or the proceeds of sale of those contents, escheat to the state if unclaimed for more than 5 years from the later of the 2 dates described above. The bill would require the business association to notify the owner of the contents of a safe deposit box twice, at specified times, regarding escheat, and would specify the contents of the notice. The bill would also require a business association to provide a notice regarding escheat to a person opening a safe deposit box. The bill would provide for a form by which the customer may declare an intention to maintain the safe deposit box or other safekeeping repository and would authorize the business association to impose a service charge for this notice. The bill would provide that the contents of a safe deposit box shall not escheat to the state under certain circumstances.

Existing law requires every person holding funds or other property escheated to the state to report to the Controller, as specified. Existing law every person filing such a report to pay or deliver to the Controller all escheated property specified in the report within a certain period.

This bill would allow the Controller to postpone the date for payment or delivery of the property, and the date for any report required by the above provisions, upon his or her own motion or upon written request by any person required to pay or deliver the property or file a report.

Existing law allows any person, excluding another state, who claims an interest in property paid or delivered to the Controller under the above provisions of law to file a claim to the property or to the net proceeds from its sale. Existing law requires the Controller to consider each claim within 180 days after it is filed.

This bill would require the Controller to add interest, at a prescribed rate, to the amount of any claim paid to the owner under these provisions for the period the property was on deposit in the Unclaimed Property Fund, except as specified. It would require a holder who pays to the owner property that has escheated to the state and that, if claimed from the Controller, would be subject to the provisions regarding the payment of interest to add interest in accordance with those provisions, and would require the Controller to repay that interest to the holder.

Existing law provides that a person who pays or delivers escheated property to the Controller under the above provisions is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

This bill would provide, instead, that a person who pays or delivers escheated property to the Controller under the above provisions and who, prior to escheat, if the person's records contain an address for the apparent owner, has made reasonable efforts to notify the owner by mail or electronically that the customer's property, deposit, account, shares, or other interest will escheat to the state, is relieved of all liability to the extent of the value of the property paid or delivered for any claim that then exists or that thereafter may arise.

~~Existing law provides for the disposition of securities held by the Controller under the above provisions. Existing law provides that, if the securities have been sold, a person making a valid claim shall be entitled to receive the net proceeds received by the Controller from the sale of the securities.~~

~~This bill would provide, instead, that a person making a valid claim under the above provisions after the securities have been sold shall be~~

entitled to receive the net proceeds from the sale and shall not be entitled to receive any appreciation in the market value of the securities occurring after the sale by the Controller.

Existing law requires that any property delivered to the Controller pursuant to the above provisions that has no apparent commercial value be retained by the Controller for not less than 18 months from the date the property is delivered to the Controller.

This bill would require, instead, that the Controller retain that property for not less than 7 years.

Existing law requires that any person who fails to report, pay, or deliver unclaimed property within the time prescribed by these provisions, unless that failure is due to reasonable cause, pay to the Controller interest at the rate of 12% per annum on that property or value thereof from the date the property should have been reported, paid, or delivered

This bill would require, in addition, that any person who fails to file a report in the time and manner required by specified provisions of law, unless that failure is due to reasonable cause, pay to the Controller interest as described above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1513 of the Code of Civil Procedure is
2 amended to read:
3 1513. (a) Subject to Sections 1510 and 1511, the following
4 property held or owing by a business association escheats to this
5 state:
6 ~~(a)~~
7 (1) (A) Except as provided in ~~subdivision (f)~~ paragraph (6),
8 any demand, savings, or matured time deposit, or account subject
9 to a negotiable order of withdrawal, made with a banking
10 organization, together with any interest or dividends thereon,
11 excluding, from demand deposits and accounts subject to a
12 negotiable order of withdrawal only, any reasonable service charges
13 that may lawfully be withheld and that do not (where made in this
14 state) exceed those set forth in schedules filed by the banking
15 organization from time to time with the Controller, when the owner,
16 for more than three years, has not done any of the following:

~~(1)~~

(i) Increased or decreased the amount of the deposit, cashed an interest check, or presented the passbook or other similar evidence of the deposit for the crediting of interest.

~~(2)~~

(ii) Corresponded electronically or in writing with the banking organization concerning the deposit.

~~(3)~~

(iii) Otherwise indicated an interest in the deposit as evidenced by a memorandum or other record on file with the banking organization.

(iv) *Received tax reports or regular statements by mail from the banking organization regarding the funds or deposit. Receipt of a report or statement by the owner shall be presumed if the banking organization sent the report or statement to the owner by first-class mail and the report or statement was not returned.*

~~A~~

(B) A deposit or account shall not, however, escheat to the state if, during the previous three years, the owner has owned another deposit or account with the banking organization and, with respect to that deposit or account, the owner has done any of the acts described in ~~paragraph (1), (2), or (3)~~ *clause (i), (ii), (iii), or (iv) of subparagraph (A)*, and the banking organization has communicated electronically or in writing with the owner, at the address to which communications regarding that deposit or account are regularly sent, with regard to the deposit or account that would otherwise escheat under this subdivision. For purposes of this subdivision, “communications” means account statements or statements of interest paid for federal and state income tax purposes.

~~No~~

(C) No banking organization may discontinue any interest or dividends on any savings deposit because of the inactivity contemplated by this section.

~~(b)~~

(2) (A) Except as provided in ~~subdivision (f)~~ *paragraph (6)*, any demand, savings, or matured time deposit, or matured investment certificate, or account subject to a negotiable order of withdrawal, or other interest in a financial organization or any deposit made therewith, and any interest or dividends thereon,

1 excluding, from demand deposits and accounts subject to a
2 negotiable order of withdrawal only, any reasonable service charges
3 that may lawfully be withheld and that do not (where made in this
4 state) exceed those set forth in schedules filed by the financial
5 organization from time to time with the Controller, when the owner,
6 for more than three years, has not done any of the following:

7 ~~(1)~~

8 (i) Increased or decreased the amount of the funds or deposit,
9 cashed an interest check, or presented an appropriate record for
10 the crediting of interest or dividends.

11 ~~(2)~~

12 (ii) Corresponded electronically or in writing with the financial
13 organization concerning the funds or deposit.

14 ~~(3)~~

15 (iii) Otherwise indicated an interest in the funds or deposit as
16 evidenced by a memorandum or other record on file with the
17 financial organization.

18 (iv) *Received tax reports or regular statements by mail from*
19 *the financial organization regarding the funds or deposit. Receipt*
20 *of a report or statement by the owner shall be presumed if the*
21 *financial organization sent the report or statement to the owner*
22 *by first-class mail and the report or statement was not returned.*

23 ~~A~~

24 (B) A deposit or account shall not, however, escheat to the state
25 if, during the previous three years, the owner has owned another
26 deposit or account with the financial organization and, with respect
27 to that deposit or account, the owner has done any of the acts
28 described in ~~paragraph (1), (2), or (3)~~ *clause (i), (ii), (iii), or (iv)*
29 *of subparagraph (A)*, and the financial organization has
30 communicated electronically or in writing with the owner, at the
31 address to which communications regarding that deposit or account
32 are regularly sent, with regard to the deposit or account that would
33 otherwise escheat under this subdivision. For purposes of this
34 subdivision, “communications” means account statements or
35 statements of interest paid for federal and state income tax
36 purposes.

37 ~~No~~

38 (C) *No* financial organization may discontinue any interest or
39 dividends on any funds paid toward purchase of shares or other

1 interest, or on any deposit, because of the inactivity contemplated
2 by this section.

3 ~~(e)~~

4 (3) Any sum payable on a traveler's check issued by a business
5 association that has been outstanding for more than 15 years from
6 the date of its issuance, when the owner, for more than 15 years,
7 has not corresponded in writing with the business association
8 concerning it, or otherwise indicated an interest as evidenced by
9 a memorandum or other record on file with the association.

10 ~~(d)~~

11 (4) Any sum payable on any other written instrument on which
12 a banking or financial organization is directly liable, including, by
13 way of illustration but not of limitation, any draft or certified check,
14 that has been outstanding for more than three years from the date
15 it was payable, or from the date of its issuance if payable on
16 demand, when the owner, for more than three years, has not
17 corresponded electronically or in writing with the banking or
18 financial organization concerning it, or otherwise indicated an
19 interest as evidenced by a memorandum or other record on file
20 with the banking or financial organization.

21 ~~(e)~~

22 (5) Any sum payable on a money order issued by a business
23 association (including a banking or financial organization), that
24 has been outstanding for more than seven years from the date it
25 was payable, or from the date of its issuance if payable on demand,
26 excluding any reasonable service charges that may lawfully be
27 withheld and that do not, when made in this state, exceed those
28 set forth in schedules filed by the business association from time
29 to time with the Controller, when the owner, for more than seven
30 years, has not corresponded electronically or in writing with the
31 business association, banking, or financial organization concerning
32 it, or otherwise indicated an interest as evidenced by a
33 memorandum or other record on file with the business association.
34 For the purposes of this subdivision, "reasonable service charge"
35 means a service charge that meets all of the following requirements:

36 ~~(1)~~

37 (A) It is uniformly applied to all of the issuer's money orders.

38 ~~(2)~~

39 (B) It is clearly disclosed to the purchaser at the time of purchase
40 and to the recipient of the money order.

1 ~~(3)~~

2 (C) It does not begin to accrue until three years after the
3 purchase date, and it stops accruing after the value of the money
4 order escheats.

5 ~~(4)~~

6 (D) It is permitted by contract between the issuer and the
7 purchaser.

8 ~~(5)~~

9 (E) It does not exceed 25 cents (\$0.25) per month or the
10 aggregate amount of twenty-one dollars (\$21).

11 ~~(f)~~—

12 (6) (A) Any funds held by a business association in an individual
13 retirement account or under a retirement plan for self-employed
14 individuals or similar account or plan established pursuant to the
15 internal revenue laws of the United States or of this state, when
16 the owner, for more than three years after the funds become payable
17 or distributable, has not done any of the following:

18 ~~(1)~~

19 (i) Increased or decreased the principal.

20 ~~(2)~~

21 (ii) Accepted payment of principal or income.

22 ~~(3)~~

23 (iii) Corresponded electronically or in writing concerning the
24 property or otherwise indicated an interest.

25 (iv) *Received tax reports or regular statements by mail from*
26 *the business association regarding the account or plan. Receipt*
27 *of a report or statement by the owner shall be presumed if the*
28 *business association sent the report or statement to the owner by*
29 *first-class mail and the report or statement was not returned.*

30 ~~These~~

31 (B) *These* funds are not payable or distributable within the
32 meaning of this subdivision unless, under the terms of the account
33 or plan, distribution of all or a part of the funds would then be
34 mandatory.

35 ~~(g)~~

36 (7) Any wages or salaries that have remained unclaimed by the
37 owner for more than one year after the wages or salaries become
38 payable.

39 ~~(h)~~

1 (b) For purposes of this section “service charges” means service
2 charges imposed because of the inactivity contemplated by this
3 section.

4 ~~SECTION 1.~~

5 SEC. 2. Section 1513.5 of the Code of Civil Procedure is
6 amended to read:

7 1513.5. (a) Except as provided in subdivision (c), if the holder
8 has in its records an address for the apparent owner, which the
9 holder’s records do not disclose to be inaccurate, every banking
10 or financial organization shall make reasonable efforts to notify
11 ~~by mail any customer~~ *any customer by mail or, if the customer has*
12 *consented to electronic notifications, electronically,* that the
13 customer’s deposit, account, shares, or other interest in the banking
14 or financial organization will escheat to the state pursuant to
15 ~~subdivision (a) or (b) paragraph (1) or (2) of subdivision (a) of~~
16 Section 1513. The holder shall give notice either:

17 (1) Not less than two years nor more than two and one-half
18 years after the date of last activity by, or communication with, the
19 owner with respect to the account, deposit, shares, or other interest,
20 as shown on the record of the financial organization.

21 (2) Not less than six nor more than 12 months before the time
22 the account, deposit, shares, or other interest becomes reportable
23 to the Controller in accordance with this chapter.

24 (b) The notice required by this section shall specify the time
25 that the deposit, account, shares, or other interest will escheat and
26 the effects of escheat, including the necessity for filing a claim for
27 the return of the deposit, account, shares, or other interest. The
28 face of the notice shall contain a heading centered at the top that
29 reads as follows: “THE STATE OF CALIFORNIA REQUIRES
30 US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY
31 MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT
32 CONTACT US,” or substantially similar language. The notice
33 required by this section shall, in bold or in a font a minimum of
34 two points larger than the rest of the notice, (1) specify that since
35 the date of last activity, or for the last two years, there has been
36 no customer activity on the deposit, account, shares, or other
37 interest; (2) identify the deposit, account, shares, or other interest
38 by number or identifier; (3) indicate that the deposit, account,
39 shares, or other interest is in danger of escheating to the state; and
40 (4) specify that the California Unclaimed Property Law requires

1 banks, banking organizations, and financial organizations to
2 transfer funds of a deposit, account, shares, or other interest if it
3 has been inactive for three years. It shall also include a form, as
4 prescribed by the Controller, by which the customer may declare
5 an intention to maintain the deposit, account, shares, or other
6 interest. If that form is filled out, signed by the customer, and
7 returned to the banking or financial organization, it shall satisfy
8 the requirement of ~~paragraph (3) of subdivision (a) or paragraph~~
9 ~~(3) of subdivision (b) clause (iii) of subparagraph (A) of paragraph~~
10 ~~(1), or clause (iii) of subparagraph (A) of paragraph (2), of~~
11 ~~subdivision (a) of Section 1513.~~ The banking or financial
12 organization may impose a service charge on the deposit, account,
13 shares, or other interest for this notice in an amount not to exceed
14 the administrative cost of mailing the notice and form and in no
15 case to exceed two dollars (\$2).

16 (c) Notice as provided by subdivisions (a) and (b) shall not be
17 required for deposits, accounts, shares, or other interests of less
18 than fifty dollars (\$50), and no service charge may be made for
19 notice on these items.

20 (d) In addition to the notices required pursuant to subdivision
21 (a), the holder may give additional notice as described in
22 subdivision (b) at any time between the date of last activity by, or
23 communication with, the owner and the date the holder transfers
24 the deposit, account, shares, or other interest to the Controller.

25 (e) At the time a new account is opened with a banking or
26 financial organization, the organization shall provide a written
27 notice to the person opening the account informing the person that
28 his or her property may be transferred to the applicable state if no
29 activity occurs in the account within the time period specified by
30 state law.

31 ~~SEC. 2.~~

32 *SEC. 3.* Section 1514 of the Code of Civil Procedure is
33 amended to read:

34 1514. (a) The contents of, or the proceeds of sale of the
35 contents of, any safe deposit box or any other safekeeping
36 repository, held in this state by a business association, escheat to
37 this state if unclaimed by the owner for more than five years from
38 the date on which the lease or rental period on the box or other
39 repository expired, or from the date of termination of any

1 agreement because of which the box or other repository was
2 furnished to the owner without cost, whichever last occurs.

3 (b) If a business association has in its records an address for an
4 apparent owner of the contents of, or the proceeds of sale of the
5 contents of, a safe deposit box or other safekeeping repository
6 described in subdivision (a), and the business association's records
7 do not disclose the address to be inaccurate, the business
8 association shall make reasonable efforts to notify the owner by
9 mail, or, when the owner has consented to electronic notifications,
10 electronically, that the owner's contents will escheat to the state
11 pursuant to this section. The business association shall give notice
12 at each of the following two times before the date the contents
13 become reportable to the Controller in accordance with this chapter:

14 (1) Not less than two and one-half years and not more than three
15 years before that date.

16 (2) Not less than six and not more than 12 months before that
17 date.

18 (c) (1) The notice required by subdivision (b) shall, in bold or
19 in a font a minimum of two points larger than the rest of the notice,
20 exclusive of the heading, do all of the following:

21 (A) Specify that since the date of last activity or for the last two
22 years or four years, as appropriate, there has been no customer
23 activity on the safe deposit box or other safekeeping repository.

24 (B) Identify the safe deposit box or other safekeeping repository
25 by number or identifier.

26 (C) Indicate that the contents of the safe deposit box or other
27 safekeeping repository are in danger of escheating to the state.

28 (D) Specify that the California Unclaimed Property Law requires
29 business associations to transfer the contents of a safe deposit box
30 or other safekeeping repository to the Controller if it has been
31 inactive for five years.

32 (2) The face of the notice required by subdivision (b) shall
33 contain a heading centered at the top that reads as follows:

34 "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY
35 YOU THAT YOUR UNCLAIMED PROPERTY MAY BE
36 TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT
37 US," or substantially similar language.

38 (3) The notice shall also include a form, as prescribed by the
39 Controller, by which the customer may declare an intention to
40 maintain the safe deposit box or other safekeeping repository by

1 either renewing the lease, rental period, or agreement, or otherwise
2 taking possession of the property from the banking or financial
3 organization. If that form is filled out, signed by the customer, and
4 returned to the business association, it shall be considered as a
5 claim for the safe deposit box or other safekeeping repository and
6 the contents shall not escheat. The business association may impose
7 a service charge on the safe deposit box or other safekeeping
8 repository for this notice in an amount not to exceed the
9 administrative cost of mailing the notice and form, and in no case
10 to exceed two dollars (\$2).

11 (d) In addition to the notices required pursuant to subdivision
12 (b), the business association may give additional notice in
13 accordance with subdivision (c) at any time between the date of
14 the last activity by, or communication with, the owner and the date
15 the business association transfers the contents of the safe deposit
16 box or other safekeeping repository to the Controller.

17 (e) A safe deposit box or other safekeeping repository shall not,
18 however, escheat to the state if, during the previous five years, the
19 owner has owned any demand, savings, or matured time deposit,
20 or account subject to a negotiable order of withdrawal, made with
21 a banking organization or financial organization and, with respect
22 to that deposit or account, the owner has done any of the acts
23 described in ~~paragraph (1), (2), or (3)~~ *clause (i), (ii), (iii), or (iv)*
24 *of subparagraph (A) of paragraph (1)* of subdivision (a) of Section
25 1513 and the financial organization has communicated
26 electronically or in writing with the owner, at the address to which
27 communications regarding that deposit or account are regularly
28 sent, with regard to the deposit or account that would otherwise
29 escheat under that section. For purposes of this subdivision,
30 “communications” means account statements of interest paid for
31 federal and state income tax purposes. Notwithstanding the
32 foregoing, in the event the customer is in default under the safe
33 deposit box or other safekeeping repository agreement, the banking
34 organization or financial organization may pay or deliver the
35 contents of, or the proceeds of sale of the contents of, the safe
36 deposit box or other safekeeping repository to the customer after
37 deducting any amount due and payable from those proceeds under
38 that agreement. Upon making that payment or delivery under this
39 subdivision, the banking organization or financial organization

1 shall be relieved of all liability to the extent of the value of those
2 contents or proceeds.

3 (f) At the time a new account for a safe deposit box or other
4 safekeeping repository is opened with a business association, the
5 association shall provide a written notice to the person opening
6 the account informing the person that his or her property may be
7 transferred to the applicable state if no activity occurs in the
8 account within the time period specified by state law.

9 (g) A banking organization may directly escheat the contents
10 of a safe deposit box or other safekeeping repository without
11 exercising its rights under Article 2 (commencing with Section
12 1660) of Chapter 13 of Division 1 of the Financial Code

13 ~~SEC. 3.~~

14 *SEC. 4.* Section 1516 of the Code of Civil Procedure is
15 amended to read:

16 1516. (a) Subject to Section 1510, any dividend, profit,
17 distribution, interest, payment on principal, or other sum held or
18 owing by a business association for or to its shareholder, certificate
19 holder, member, bondholder, or other security holder, or a
20 participating patron of a cooperative, who has not claimed it, or
21 corresponded in writing with the business association concerning
22 it, within three years after the date prescribed for payment or
23 delivery, escheats to this state.

24 (b) Subject to Section 1510, any intangible interest in a business
25 association, as evidenced by the stock records or membership
26 records of the association, escheats to this state if (1) the interest
27 in the association is owned by a person who for more than three
28 years has neither claimed a dividend or other sum referred to in
29 subdivision (a) nor corresponded in writing with the association
30 or otherwise indicated an interest as evidenced by a memorandum
31 or other record on file with the association, and (2) the association
32 does not know the location of the owner at the end of the three-year
33 period. With respect to the interest, the business association shall
34 be deemed the holder.

35 (c) Subject to Section 1510, any dividends or other distributions
36 held for or owing to a person at the time the stock or other security
37 to which they attach escheats to this state also escheat to this state
38 as of the same time.

39 (d) With respect to any interest that may escheat pursuant to
40 subdivision (b), the business association shall make reasonable

1 efforts to notify the owner by mail *or, if the customer has consented*
2 *to electronic notifications, electronically*, that the owner's interest
3 in the business association will escheat to the state. The notice
4 shall be given not less than 6 nor more than 12 months before the
5 time the interest in the business association becomes reportable to
6 the Controller in accordance with this chapter. The face of the
7 notice shall contain a heading centered at the top that reads as
8 follows: "THE STATE OF CALIFORNIA REQUIRES US TO
9 NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY
10 BE TRANSFERRED TO THE STATE IF YOU DO NOT
11 CONTACT US," or substantially similar language. The notice
12 required by this subdivision shall specify the time that the interest
13 will escheat and the effects of escheat, including the necessity for
14 filing a claim for the return of the interest. The notice required by
15 this section shall, in bold or in a font a minimum of two points
16 larger than the rest of the notice, (1) specify that since the date of
17 last activity, or for the last two years, there has been no customer
18 activity on the deposit, account, shares, or other interest; (2)
19 identify the deposit, account, shares, or other interest by number
20 or identifier; (3) indicate that the deposit, account, shares, or other
21 interest is in danger of escheating to the state; and (4) specify that
22 the California Unclaimed Property Law requires banks, banking
23 organizations, and financial organizations to transfer funds of a
24 deposit, account, shares, or other interest if it has been inactive for
25 three years. It shall also include a form, as prescribed by the
26 Controller, by which the owner may confirm the owner's current
27 address. If that form is filled out, signed by the owner, and returned
28 to the holder, it shall be deemed that the business association knows
29 the location of the owner.

30 (e) In addition to the notice required pursuant to subdivision
31 (d), the holder may give additional notice as described in
32 subdivision (d) at any time between the date of last activity by, or
33 communication with, the owner and the date the holder transfers
34 the deposit, shares, or other interest to the Controller.

35
36 ~~SEC. 4.~~

37 SEC. 5. Section 1520 of the Code of Civil Procedure is
38 amended to read:

39 1520. (a) All tangible personal property located in this state
40 and, subject to Section 1510, all intangible personal property,

except property of the classes mentioned in Sections 1511, 1513, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business and has remained unclaimed by the owner for more than three years after it became payable or distributable escheats to this state.

(b) Except as provided in subdivision (a) of Section 1513.5, subdivision (b) of Section 1514, and subdivision (d) of Section 1516, if the holder has in its records an address for the apparent owner of property valued at fifty dollars (\$50) or more, which the holder's records do not disclose to be inaccurate, the holder shall make reasonable efforts to notify the owner by mail *or, if the customer has consented to electronic notifications, electronically*, that the owner's property will escheat to the state pursuant to this chapter. The notice shall be mailed not less than six nor more than 12 months before the time when the owner's property held by the business becomes reportable to the Controller in accordance with this chapter. The face of the notice shall contain a heading centered at the top that reads as follows: "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language. The notice required by this subdivision shall specify the time when the property will escheat and the effects of escheat, including the need to file a claim in order for the owner's property to be returned to the owner. The notice required by this section shall, in bold or in a font a minimum of two points larger than the rest of the notice, (1) specify that since the date of last activity, or for the last two years, there has been no customer activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the California Unclaimed Property Law requires banks, banking organizations, and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may confirm the owner's current address. If that form is filled out, signed by the owner, and returned to the holder, it shall be deemed that the account, or other device in which the owner's property is

1 being held, remains currently active and recommences the escheat
2 period.

3 (c) In addition to the notice required pursuant to subdivision
4 (b), the holder may give additional notice as described in
5 subdivision (b) at any time between the date of last activity by, or
6 communication with, the owner and the date the holder transfers
7 the property to the Controller.

8 (d) For purposes of this section, “lawful charges” means charges
9 which are specifically authorized by statute, other than the
10 Unclaimed Property Law, or by a valid, enforceable contract.

11 ~~SEC. 5.~~

12 *SEC. 6.* Section 1532 of the Code of Civil Procedure is
13 amended to read:

14 1532. (a) Every person filing a report as provided by Section
15 1530 shall, no sooner than seven months and no later than seven
16 months and 15 days after the final date for filing the report, pay
17 or deliver to the Controller all escheated property specified in the
18 report. Any payment of unclaimed cash in an amount of at least
19 twenty thousand dollars (\$20,000) shall be made by electronic
20 funds transfer pursuant to regulations adopted by the Controller.
21 The Controller may postpone the date for payment or delivery of
22 the property, and the date for any report required by subdivision
23 (b), upon his or her own motion or upon written request by any
24 person required to pay or deliver the property or file a report as
25 required by this section.

26 (b) If a person establishes his or her right to receive any property
27 specified in the report to the satisfaction of the holder before that
28 property has been delivered to the Controller, or it appears that,
29 for any other reason, the property may not be subject to escheat
30 under this chapter, the holder shall not pay or deliver the property
31 to the Controller but shall instead file a report with the Controller,
32 on a form and in a format prescribed or approved by the Controller,
33 containing information pertaining to the property not subject to
34 escheat.

35 (c) Any property not paid or delivered pursuant to subdivision
36 (b) that is later determined by the holder to be subject to escheat
37 under this chapter shall not be subject to the interest provision of
38 Section 1577.

39 (d) The holder of any interest under subdivision (b) of Section
40 1516 shall deliver a duplicate certificate to the Controller or shall

1 register the securities in uncertificated form in the name of the
2 Controller. Upon delivering a duplicate certificate or providing
3 evidence of registration of the securities in uncertificated form to
4 the Controller, the holder, any transfer agent, registrar, or other
5 person acting for or on behalf of the holder in executing or
6 delivering the duplicate certificate or registering the uncertificated
7 securities, shall be relieved from all liability of every kind to any
8 person including, but not limited to, any person acquiring the
9 original certificate or the duplicate of the certificate issued to the
10 Controller for any losses or damages resulting to that person by
11 the issuance and delivery to the Controller of the duplicate
12 certificate or the registration of the uncertificated securities to the
13 Controller.

14 (e) Payment of any intangible property to the Controller shall
15 be made at the office of the Controller in Sacramento or at another
16 location as the Controller by regulation may designate. Except as
17 otherwise agreed by the Controller and the holder, tangible personal
18 property shall be delivered to the Controller at the place where it
19 is held.

20 (f) Payment is deemed complete on the date the electronic funds
21 transfer is initiated if the settlement to the state's demand account
22 occurs on or before the banking day following the date the transfer
23 is initiated. If the settlement to the state's demand account does
24 not occur on or before the banking day following the date the
25 transfer is initiated, payment is deemed to occur on the date
26 settlement occurs.

27 (g) Any person required to pay cash by electronic funds transfer
28 who makes the payment by means other than an authorized
29 electronic funds transfer shall be liable for a civil penalty of 2
30 percent of the amount of the payment that is due pursuant to this
31 section, in addition to any other penalty provided by law. Penalties
32 are due at the time of payment. If the Controller finds that a
33 holder's failure to make payment by an appropriate electronic
34 funds transfer in accordance with the Controller's procedures is
35 due to reasonable cause and circumstances beyond the holder's
36 control, and occurred notwithstanding the exercise of ordinary
37 care and in the absence of willful neglect, that holder shall be
38 relieved of the penalties.

39 (h) An electronic funds transfer shall be accomplished by an
40 automated clearinghouse debit, an automated clearinghouse credit,

1 a Federal Reserve Wire Transfer (Fedwire), or by an international
2 funds transfer. Banking costs incurred for the automated
3 clearinghouse debit transaction by the holder shall be paid by the
4 state. Banking costs incurred by the state for the automated
5 clearinghouse credit transaction may be paid by the holder
6 originating the credit. Banking costs incurred for the Fedwire
7 transaction charged to the holder and the state shall be paid by the
8 person originating the transaction. Banking costs charged to the
9 holder and to the state for an international funds transfer may be
10 charged to the holder.

11 (i) For purposes of this section:

12 (1) “Electronic funds transfer” means any transfer of funds,
13 other than a transaction originated by check, draft, or similar paper
14 instrument, that is initiated through an electronic terminal,
15 telephonic instrument, modem, computer, or magnetic tape, so as
16 to order, instruct, or authorize a financial institution to credit or
17 debit an account.

18 (2) “Automated clearinghouse” means any federal reserve bank,
19 or an organization established by agreement with the National
20 Automated Clearing House Association, that operates as a
21 clearinghouse for transmitting or receiving entries between banks
22 or bank accounts and that authorizes an electronic transfer of funds
23 between those banks or bank accounts.

24 (3) “Automated clearinghouse debit” means a transaction in
25 which the state, through its designated depository bank, originates
26 an automated clearinghouse transaction debiting the holder’s bank
27 account and crediting the state’s bank account for the amount of
28 payment.

29 (4) “Automated clearinghouse credit” means an automated
30 clearinghouse transaction in which the holder, through its own
31 bank, originates an entry crediting the state’s bank account and
32 debiting the holder’s bank account.

33 (5) “Fedwire” means any transaction originated by the holder
34 and utilizing the national electronic payment system to transfer
35 funds through federal reserve banks, pursuant to which the holder
36 debits its own bank account and credits the state’s bank account.

37 (6) “International funds transfer” means any transaction
38 originated by the holder and utilizing the international electronic
39 payment system to transfer funds, pursuant to which the holder

1 debits its own bank account, and credits the funds to a United
2 States bank that credits the Unclaimed Property Fund.

3 ~~SEC. 6.~~

4 *SEC. 7.* Section 1540 of the Code of Civil Procedure is
5 amended to read:

6 1540. (a) Any person, excluding another state, who claims an
7 interest in property paid or delivered to the Controller under this
8 chapter may file a claim to the property or to the net proceeds from
9 its sale. The claim shall be on a form prescribed by the Controller
10 and shall be verified by the claimant.

11 (b) The Controller shall consider each claim within 180 days
12 after it is filed and may hold a hearing and receive evidence. The
13 Controller shall give written notice to the claimant if he or she
14 denies the claim in whole or in part. The notice may be given by
15 mailing it to the address, if any, stated in the claim as the address
16 to which notices are to be sent. If no address is stated in the claim,
17 the notice may be mailed to the address, if any, of the claimant as
18 stated in the claim. No notice of denial need be given if the claim
19 fails to state either an address to which notices are to be sent or an
20 address of the claimant.

21 (c) (1) The Controller shall add interest at the rate of 5 percent
22 per year or the bond equivalent rate of 13-week United States
23 Treasury bills, whichever is lower, to the amount of any claim paid
24 to the owner under this section for the period the property was on
25 deposit in the Unclaimed Property Fund. No interest shall be
26 payable for any period prior to January 1, 1977. Any interest
27 required to be paid by the state pursuant to this section shall be
28 computed as simple interest, not as compound interest.

29 (2) For purposes of this section, the bond equivalent rate of
30 13-week United States Treasury bills shall be defined in accordance
31 with the following criteria:

32 (A) The bond equivalent rate of 13-week United States Treasury
33 bills established at the first auction held during the month of
34 January shall apply for the following July 1 to December 31,
35 inclusive.

36 (B) The bond equivalent rate of 13-week United States Treasury
37 bills established at the first auction held during the month of July
38 shall apply for the following January 1 to June 30, inclusive.

39 (d) A holder who pays to the owner property that has escheated
40 and been remitted to the state and that, if claimed from the

1 Controller, would be subject to subdivision (c) shall add interest
2 as provided in subdivision (c). If interest is added, that interest
3 shall be repaid to the holder by the Controller in the same manner
4 as the principal.

5 (e) For the purposes of this section, “owner” means the person
6 who had legal right to the property prior to its escheat, his or her
7 heirs, his or her legal representative, or a public administrator
8 acting pursuant to the authority granted in Sections 7660 and 7661
9 of the Probate Code.

10 (f) Following a public hearing, the Controller shall adopt
11 guidelines and forms that shall provide specific instructions to
12 assist owners in filing claims pursuant to this article.

13 ~~SEC. 7.~~

14 *SEC. 8.* Section 1560 of the Code of Civil Procedure is
15 amended to read:

16 1560. (a) Upon the payment or delivery of escheated property
17 to the Controller, the state shall assume custody and shall be
18 responsible for the safekeeping of the property. Any person who
19 pays or delivers escheated property to the Controller under this
20 chapter and who, prior to escheat, if the person’s records contain
21 an address for the apparent owner, has made reasonable efforts to
22 notify the owner by mail or, when the owner has consented to
23 electronic notifications, electronically, as required by Sections
24 1513.5, 1514, 1516, and 1520, that the customer’s property,
25 deposit, account, shares, or other interest will escheat to the state,
26 is relieved of all liability to the extent of the value of the property
27 so paid or delivered for any claim which then exists or which
28 thereafter may arise or be made in respect to the property. Property
29 removed from a safe deposit box or other safekeeping repository
30 shall be received by the Controller subject to any valid lien of the
31 holder for rent and other charges, such rent and other charges to
32 be paid out of the proceeds remaining after the Controller has
33 deducted therefrom his selling cost.

34 (b) Any holder who has paid moneys to the State Controller
35 pursuant to this chapter may make payment to any person appearing
36 to such holder to be entitled thereto, and upon filing proof of such
37 payment and proof that the payee was entitled thereto, the
38 Controller shall forthwith reimburse the holder for the payment
39 without deduction of any fee or other charges. Where
40 reimbursement is sought for a payment made on a negotiable

1 instrument (including a travelers check or money order), the holder
2 shall be reimbursed under this subdivision upon filing proof that
3 the instrument was duly presented to him and that payment was
4 made thereon to a person who appeared to the holder to be entitled
5 to payment.

6 (c) The holder shall be reimbursed under this section even if he
7 made the payment to a person whose claim against him was barred
8 because of the expiration of any such period of time as those
9 described in Section 1570.

10 (d) Any holder who has delivered personal property, including
11 a certificate of any interest in a business association, to the
12 Controller pursuant to this chapter may reclaim such personal
13 property if still in the possession of the Controller without payment
14 of any fee or other charges upon filing proof that the owner thereof
15 has claimed such personal property from such holder. The
16 Controller may, in his discretion, accept an affidavit of the holder
17 stating the facts that entitle the holder to reimbursement under this
18 subdivision as sufficient proof for the purposes of this subdivision.

19 ~~SEC. 8. Section 1563 of the Code of Civil Procedure is~~
20 ~~amended to read:~~

21 ~~1563. (a) Except as provided in subdivisions (b) and (c), all~~
22 ~~escheated property delivered to the Controller under this chapter~~
23 ~~shall be sold by the Controller to the highest bidder at public sale~~
24 ~~in whatever city in the state affords in his or her judgment the most~~
25 ~~favorable market for the property involved, or the Controller may~~
26 ~~conduct the sale by electronic media, including, but not limited~~
27 ~~to, the Internet, if in his or her judgment it is cost effective to~~
28 ~~conduct the sale of the property involved in that manner. However,~~
29 ~~no sale shall be made pursuant to this subdivision until 18 months~~
30 ~~after the final date for filing the report required by Section 1530.~~
31 ~~The Controller may decline the highest bid and reoffer the property~~
32 ~~for sale if he or she considers the price bid insufficient. The~~
33 ~~Controller need not offer any property for sale if, in his or her~~
34 ~~opinion, the probable cost of sale exceeds the value of the property.~~
35 ~~Any sale of escheated property held under this section shall be~~
36 ~~preceded by a single publication of notice thereof, at least one~~
37 ~~week in advance of sale, in an English language newspaper of~~
38 ~~general circulation in the county where the property is to be sold.~~

39 ~~(b) Securities listed on an established stock exchange shall be~~
40 ~~sold at the prevailing prices on that exchange. Other securities may~~

1 be sold over the counter at prevailing prices or, with prior approval
2 of the California Victim Compensation and Government Claims
3 Board, by any other method that the Controller may determine to
4 be advisable. These securities shall be sold by the Controller no
5 sooner than 18 months, but no later than 20 months, after the final
6 date for filing the report required by Section 1530. If securities
7 delivered to the Controller by a holder of the securities remain in
8 the custody of the Controller, a person making a valid claim for
9 those securities under this chapter shall be entitled to receive the
10 securities from the Controller. If the securities have been sold, the
11 person shall be entitled to receive the net proceeds received by the
12 Controller from the sale of the securities and shall not be entitled
13 to receive any appreciation in the market value of the securities
14 occurring after the sale by the Controller. United States government
15 savings bonds and United States war bonds shall be presented to
16 the United States for payment. Subdivision (a) does not apply to
17 the property described in this subdivision.

18 (e) (1) ~~All escheated property consisting of military awards,~~
19 ~~decorations, equipment, artifacts, memorabilia, documents,~~
20 ~~photographs, films, literature, and any other item relating to the~~
21 ~~military history of California and Californians that is delivered to~~
22 ~~the Controller is exempt from subdivision (a) and shall be held in~~
23 ~~trust for the Controller at the California State Military Museum~~
24 ~~and Resource Center. All escheated property held in trust pursuant~~
25 ~~to this subdivision is subject to the applicable regulations of the~~
26 ~~United States Army governing Army museum activities as~~
27 ~~described in Section 179 of the Military and Veterans Code. Any~~
28 ~~person claiming an interest in the escheated property may file a~~
29 ~~claim to the property pursuant to Article 4 (commencing with~~
30 ~~Section 1540).~~

31 (2) ~~The California State Military Museum and Resource Center~~
32 ~~shall be responsible for the costs of storage and maintenance of~~
33 ~~escheated property delivered by the Controller under this~~
34 ~~subdivision.~~

35 (d) ~~The purchaser at any sale conducted by the Controller~~
36 ~~pursuant to this chapter shall receive title to the property purchased,~~
37 ~~free from all claims of the owner or prior holder thereof and of all~~
38 ~~persons claiming through or under them. The Controller shall~~
39 ~~execute all documents necessary to complete the transfer of title.~~

1 SEC. 9. Section 1565 of the Code of Civil Procedure is
2 amended to read:

3 1565. Any property delivered to the Controller pursuant to this
4 chapter that has no apparent commercial value shall be retained
5 by the Controller for a period of not less than seven years from
6 the date the property is delivered to the Controller. If the Controller
7 determines that any property delivered to him or her pursuant to
8 this chapter has no apparent commercial value, he or she may at
9 any time thereafter destroy or otherwise dispose of the property,
10 and in that event no action or proceeding shall be brought or
11 maintained against the state or any officer thereof, or against the
12 holder for, or on account of any action taken by, the Controller
13 pursuant to this chapter with respect to the property.

14 SEC. 10. Section 1577 of the Code of Civil Procedure is
15 amended to read:

16 1577. In addition to any damages, penalties, or fines for which
17 a person may be liable under other provisions of law, any person
18 who fails to file a report in the time and manner required by Section
19 1530, or who otherwise fails to report, pay, or deliver unclaimed
20 property within the time prescribed by this chapter, unless that
21 failure is due to reasonable cause, shall pay to the Controller
22 interest at the rate of 12 percent per annum on that property or
23 value thereof from the date the property should have been reported,
24 paid, or delivered.